

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 34418

STATE OF IDAHO,)	2008 Unpublished Opinion No. 658
)	
Plaintiff-Respondent,)	Filed: September 29, 2008
)	
v.)	Stephen W. Kenyon, Clerk
)	
LINDA DEANN BASSETT,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Thomas F. Neville, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Nicole Owens, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Thomas Tharp, Deputy Attorney General, Boise, for respondent.

PER CURIAM

Linda Deann Bassett was charged with and pled guilty to possession of a controlled substance and was sentenced to a unified term of ten years, with three years determinate, with the district court retaining jurisdiction. After Bassett completed her rider, the district court granted Bassett's first Idaho Criminal Rule 35 motion, suspended her sentence and placed her on unsupervised probation. Approximately seven and one-half years later, Bassett was found to have violated her probation by committing the crime of grand theft by unauthorized control and was found to be a persistent violator. The district court revoked Bassett's probation and ordered into execution the previously imposed sentence. Bassett filed a second Rule 35 motion for reduction of sentence, which the district court denied. Bassett appeals that denial, contending that the district court abused its discretion by failing to reduce her previously imposed sentence *sua sponte*.

A defendant is not entitled to file more than one motion seeking a reduction of his/her sentence under Rule 35. Rule 35 specifically provides that, “no defendant may file more than one motion seeking a reduction of sentence under this Rule.” *See also State v. Hickman*, 119 Idaho 7, 802 P.2d 1219 (Ct. App. 1990). Bassett concedes the district court did not have jurisdiction to grant relief because the Rule 35 motion at issue is Bassett’s second such motion. Therefore, there was no error in denial of the second motion.